Vergent, ORC

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10
1200 Sixth Avenue
Seattle, Washington 98101
October 8, 1993

Tuesday at 2
or Thurs
ng

Reply To
Attn Of: AT-082

Orville D. Green, Assistant Administrator
Permits and Enforcement
Division of Environmental Quality
Idaho Department of Health
and Welfare
1410 North Hilton
Boise, Idaho 83720-9000

Dear Mr. Green:

EPA has reviewed the proposed revisions to IDAPA, 16 Title I, Chapter 1 "Rules for the Control of Air Pollution in Idaho" and offer the enclosed comments for the public record. Our review focussed on two primary areas: (1) whether certain of the revised rules would be approvable as revisions to the Idaho state implementation plan (SIP) under Title I of the federal Clean Air Act; and (2) whether certain of the new or revised rules would be approvable as a federal operating permit program under Title V of the Clean Air Act. We have not provided any substantive comments on the proposed permit provisions for hazardous air pollutants since EPA has not yet promulgated federal regulations for state new source review programs under §112(g) of the Act.

I hope that you find our comments and suggestions useful as you proceed with adoption of these rule revisions. If you have any questions, or would like to discuss any of our comments or suggestions further, please give me a call at (206) 553-4253.

Sincerely,

David C. Bray

David C. Bray
Permit Programs Manager

Enclosure

cc: Doug Cole, IOO

EPA COMMENTS AND SUGGESTIONS ON
PROPOSED REVISIONS TO
RULES FOR THE CONTROL OF AIR POLLUTION IN IDAHO

General

1. Requirement to have a permit. By restructuring and streamlining the federal regulation as a state rule, the requirements of 40 CFR 70.1(b), 70.7(b), and 70.7(c)(iii) that a source have and comply with a Title V permit has been omitted. In order for the Idaho operating permit program to be approvable, it must clearly require that all the affected sources must have an operating permit and must operate in compliance with that permit.

2. Confidentiality provisions. The existing Idaho rules regarding confidentiality of business information are too broad and may provide prohibit the public release of information on emissions or other materials in a permit application. In order for the Idaho operating permit program to receive full approval, these confidentiality rules must be revised to be consistent with the requirements of §114(c) of the Clean Air Act and 40 CFR 70.4(b)(3)(vii).

3. Permit to Construct Applicability. As stated in previous comments to the Department on an earlier draft of these proposed revisions, the changes to the permit to construct rules which are being made to incorporate the hazardous air pollutant sources will adversely impact the currently-approved SIP provisions for criteria pollutant sources. If adopted as currently proposed, EPA would be required to disapprove these rules and the Idaho permit to construct program.

4. Acid Rain Provisions - Although it is acceptable for Idaho to forego adopting phase II acid rain permitting requirements at this time (provided the Governor commits to timely adoption and submittal of rules for phase II permits), Idaho must adopt at this time all of the Title V permit provisions which relate to Title IV (acid rain) sources. The Title V provisions are necessary to address the potential need to permit some Title IV affected sources (e.g., new units, opt-in units) under Title V prior to the effective date of Phase II permits.

Specific Comments

1. Section 100.03. Actual Emissions. The phrase "January of the current year or the date on which an application for a permit was filed" must be changed to "a particular date". There are many provisions in the permit rules where the actual emissions of a stationary source or emissions unit will need to be determined for some date in the past and this provision would not allow or provide for that determination.

2. Section 100.08. Affected States. This definition should be revised to refer to the State of Idaho and not to any "State in which a Tier I permit...".

NOW .008.02

3. Section 100.11. Air Pollutant. This definition must be revised to cover every pollutant regulated under the federal Clean Air Act, not just those covered by the Idaho Act and these rules.

4. Section 100.12. Air Pollution. This definition should use the term "air pollutant," not "contaminant" since only "air pollutant" is defined herein.

5. Section 100.15. Allowable Emissions. This definition must be revised to indicate that limits must be "federally" enforceable, not just enforceable.

6. Section 100.16. Allowance. Note that this definition uses the term "affected unit" which either needs to be defined or replaced with the term "Phase II unit."

7. Section 100.19. Applicable Requirement. This definition must be revised in a number of ways in order to meet the requirements of Title V:

(1) The parenthetical phrase in the opening sentence must be revised to indicate that applicable requirements are only those that have been promulgated or approved by EPA. Rules promulgated by Idaho that have not been approved by EPA are not applicable requirements for purposes of Title V of the Act.

(2) Subsection (a) must be revised to include any standard or requirement promulgated by EPA under Title I of the Clean Air Act.

(3) Subsection (b) must be revised to include terms and conditions in preconstruction permits issued by EPA under Title I (there are permits issued by EPA before Idaho's preconstruction review program was approved by EPA). Furthermore, the clause beginning with "solely excluding..." must be deleted since this definition by its own terms, only applies to Tier I sources.

(4) Subsection (c) should be revised to refer to all provisions under section 111 of the Act, such as 40 CFR Part 62.

(5) Subsection (d) should be revised to refer to all provisions under section 112 of the Act, such as 40 CFR Part 63.

(6) Subsection (f) must be revised to reference any monitoring requirements promulgated under Section 504(b) of the Act.

(7) Subsection (h) must be revised to avoid any possible confusion in combing the references to 42 U.S.C. §§ 7511b(e) and (f). We suggest the phrase "and tank vessels" be added after the words "consumer and commercial products."

(8) Subsection (i) must be revised to include reference to Title VI of the Act since future Title VI requirements could be promulgated under provisions other than 40 CFR. Part 82.

(9) An additional subsection must be added, consistent with the EPA regulations, to include any national ambient air quality standard or increment or visibility requirement under part C of Title I of the CAA as applied to temporary sources.

8. Section 100.25. Best Available Control Technology (BACT). This definition must be revised to include reference to 40 CFR Part 63, since all National Emission Standards for Hazardous Air Pollutants are not included in 40 CFR Part 61.

9. Section 100.26. Collection Efficiency. The term "contaminant" should be changed to "air pollutant."

10. Section 100.39. Designated Representative. This definition must be revised to use the term "affected unit", not just "unit". Also it must be consistent with the definition in EPA's Acid Rain regulations.

11. Section 100.45. Emission Standard. This definition must be revised to include any requirement established by the EPA, not just the Department. Again, this definition must also reference 40 CFR Part 63 to cover all of the National Emission Standards for Hazardous air pollutants.

12. Section 100.47. Emission Unit. This definition must be expanded to indicate that it does not alter or affect the definition of the term "unit" for purposes of title IV of the Clean Air Act.

13. Section 100.63. Hazardous Air Pollutant. This definition must be revised to include the pollutants listed in or pursuant to section 112(b) of the Clean Air Act. These pollutants are "hazardous air pollutants" even though they may not yet be subject to a standard under section 112.

14. Section 100.71. Insignificant Activities. The item for space heating must include a size cutoff so that large central heating systems are not inappropriately exempted from permit requirements.

15. Section 100.75. Major Facility. This definition must be revised in a number of ways:

(1) Either the term "facility" must be used instead of "stationary source" or the definition must be substantially revised to conform with the EPA definition of "major stationary source".

(2) In subsection (a) the term "hazardous regulated air pollutant" must be changed to simply "hazardous air pollutant" and the provisions allowing EPA to establish lesser quantities for some pollutants and alternatives for radionuclides must be added.

(3) In subsection (b), the term "stationary source" must be changed to "facility," and paragraph (ii) must be revised to cover all regulated pollutants, not just those covered by the standards to comply with 50 CFR 51.166, and reference to 40 CFR Part 63 must be included. Note that this provision is now inconsistent with the definition of "major modification" in that this definition exempts all "fugitive emissions" whereas the definition of "major modification" only exempts "fugitive dust."

~~16.~~ Section 100.76. Major Modification. Subsection c. must be revised to include reference to 40 CFR Part 63 in order to cover all sources regulated under section 112 of the Clean Air Act.

~~17.~~ Section 100.94. Nonattainment Area. This definition must be revised to include reference to Section 107(d) of the Clean Air Act. Although the state can add additional areas, it must consider as nonattainment all areas designated by EPA under section 107(d).

18. Section 100.105. Phase II Source and 100.106. Phase II Unit. These definitions must either be made consistent with the definitions of the EPA terms "affected source" and "affected unit" or replaced with those terms and their definitions.

~~19.~~ Section 100.110. Potential to Emit/Potential Emissions. This definition must be revised to include "facilities" as well as stationary sources since it is used primarily to determine if a facility is major. Second, the provision ensuring that this term will not alter or affect the term "capacity factor" used in title IV of the Clean Air Act must be added.

20. Section 100.112. PPM (parts per million). The term "contaminant" should be changed to "air pollutant."

~~21.~~ Section 100.131. Significant. Subsection (b) must be revised to include the phrase "or facility" since potential to emit applies to facilities as well as sources.

~~22.~~ Section 100. DEFINITIONS. Definitions of the term "emissions allowable under the permit," must be added to comply with the requirements of Title V of the Act and 40 CFR Part 70.

23. Section 121.01. This paragraph should be clarified to specify that the schedule prepared by the source is a "proposed" compliance schedule.

24. Section 130. UPSET CONDITIONS, BREAKDOWN. This provision is not approvable as a part of the Idaho SIP as it fails to comply with the requirements of the Clean Air Act for violations of applicable SIP emission limits.

25. Sections 140 through 149. VARIANCES et seq. These sections are not approvable as revisions to the Idaho SIP. First, EPA does not approve "variances" to Idaho rules. EPA can approve revisions to the Idaho SIP which have been adopted by the Department and submitted to EPA, including variances that the Director has granted pursuant to this provision. As such, this section must be revised significantly. Furthermore, the variance provisions must either be inapplicable to Title V sources, or the rules must clarify that a variance must be accomplished through a revision to the source's Title V permit.

26. Section 161. TOXIC SUBSTANCES. The structure of this provision is confusing. Paragraphs .02 and .03 should be subparagraphs under the provision in paragraph .01 (i.e. delete the number .01, and renumber .02 and .03 to .01 and .02, respectively).

27. Section 201. PERMIT TO CONSTRUCT. As discussed in my letter of June 29, 1993 (copy attached), the proposed revisions to the permit to construct applicability provision will not be approvable as revisions to the Idaho SIP for a number of reasons.

(1) The new exemptions for Category I, II, III, and IV sources inappropriately relaxes the currently approved SIP, and fails to comply with the requirements of section 110(a)(2)(C) of the Clean Air Act and 40 CFR Part 51, Subpart I of EPA regulations. Specifically, the four categories are not mutually exclusive and therefore would allow a source to be exempted under one provision where another provision would require a permit.

(2) Broad discretionary exemptions such as 201.01.g., 202.02.d.i., etc. are not approvable.

(3) Section 201.02.a. exempts all major sources by using the term "Not."

(4) The reference in 201.03. to "Section 200 et seq." should be changed to 201.03 since the source need not verify compliance with all of Sections 200 to 299, only the provisions of 201.03.a. through d.

(5) In subparagraph (vi), the phrase "agricultural activities and services" is used, whereas the definition section defines only "agricultural activities." Also, the clarification of what are not agricultural activities (i.e. manufacturing, bulk storage and handling for resale or formulating any listed chemical) should be moved to the definition section unless this exempted activity is intended to be narrower than all "agricultural activities"

(6) The permit to construct applicability provisions must ensure that all new, modified, or reconstructed stationary sources subject to any standard under sections 111 or 112 of the Clean Air Act are required to obtain a permit to construct. Idaho's Title V operating permit program cannot be approved unless it demonstrates that it can implement and enforce all of the requirements of sections 111 and 112 for subject sources, including the requirements for preconstruction review and initial source compliance determinations.

28. Section 202. APPLICATION PROCEDURES. The phrase "by the owner or operator" should be replaced with "in accordance with Section 123" now that section 123 sets out who must be the certifying official for permits to construct. Furthermore, Section 202.01.c. should be expanded to include a reference to 205.07

29. Section 203.03 through 05. Recognize that these provisions for new and modified air toxics sources do not meet the requirements of section 112(g) of the Clean Air Act. When EPA's regulations to implement section 112(g) are promulgated, Idaho will have to substantially revise and tighten these requirements.

30. Section 209. PROCEDURE FOR ISSUING PERMITS. This section should perhaps be moved to after Section 400, et seq, since it applies to both permits to construct and tier II permits. In addition, the second reference to "major modification" in 209.01.c. must be changed to "modification." Finally, the last sentence in 209.05 must be deleted since permits to construct do not expire and are not "renewed" like operating permits.

31. Section 302.05. This provision must be expanded to include source categories designated by EPA.

32. Section 313.04. In accordance with 40 CFR 70.5(a)(a)(iii), the State must require that applications for permit renewals be submitted between 6 and 18 months before expiration of the permit. Requiring renewal applications to be submitted more than 18 months before expiration is not approvable. This provision needs to be reworded to ensure that the application is submitted no earlier than 18 months prior to expiration and no later than (some time between 6 and 18) months prior to expiration.

33. Section 314.02. The description of the source's products and processes must include information about the applicable SIC codes.

34. Section 314.04.a. The application must also include information on all air pollutants, that are not also regulated air pollutants, for which the source is major. The Department must also have authority to require additional information to determine the applicability of applicable requirements for all air pollutants, not just regulated air pollutants and as necessary to collect any permit fees. In addition, the reference to exempted units must be more specific than simply "Section 314, et seq."

35. Section 314.08. The last phrase needs to be revised to clarify that the additional information relates to permit terms and conditions allowing for emissions trading and cross reference the appropriate Idaho bubble rules.

36. Section 314.09. Pursuant to 40 CFR 70.5(c)(8)(iv), the compliance plan must also include a schedule for submission of certified progress reports no less frequently than every 6 months for every source required to have a compliance schedule to remedy a violation.

37. Section 314.11.d. This paragraph must be revised to require a statement indicating "whether" the source is in compliance, not "that the source is in compliance."

38. Section 314.13. The phrase "activities which are exempted from permitting requirements of Sections 200 et seq." must be changed to "insignificant activities." The requirements of Title V (operating permits) of the Clean Air Act are completely different from the requirements of Title I (new source review) and the exemptions for construction permits are not approvable as exemptions from operating permits. Also, in the case of insignificant activities, the source must also submit such information as is necessary to demonstrate that the exemption applies.

39. Section 317. For additional clarity, this paragraph should cross reference the provision which gives sources the ability to operate without a permit if the source submitted a timely application.

40. Section 322.01. The permit must include emission limitations that assure compliance with all applicable requirements even if such requirements are identified after submission of the application.

41. Section 322.03. This provision needs to be revised to clarify that there must be at least one permit term for each requirement.

42. Section 322.04. The reference to operating scenarios approved in accordance with Section 314.08 is confusing because Section 314.08 does not address the approval of such scenarios, only the information to include in an application. The permit must also include provisions that assure compliance with all applicable requirements for each such scenario.

43. Section 322.13. This provision must be deleted since no Tier II requirements can be applicable to Tier I sources. A source is either subject to Title V of the Clean Air Act or it is not.

44. Section 322.14(f). It is unclear whether requiring all information requested under Section 122 is as broad as 40 CFR 70.6(a)(6)(v). This could perhaps be clarified by the Attorney General opinion.

45. Section 322.14(h). This provision is contrary to 40 CFR 70.6(f) and Section 325 of the Idaho regulations in that it doesn't provide that the permit is a shield only as to applicable requirements listed in the application and expressly determined in writing by the permitting authority not to be applicable.

46. Section 322.15. The last clause should be revised to clarify that it refers to a "modification under any provision of 42 U.S.C. Section 7401 to 7515."

47. Section 322.20. As discussed below, Idaho must demonstrate that all Tier I sources are subject to Sections 525 through 538. For example, it is not clear that Tier I sources which are major only for hazardous air pollutants would be subject to registration fees.

48. Section 322.22. The phrasing is awkward and could possibly be revised to state: "...a permit term of five years; except...." Also, the provision allowing for permits of shorter duration during the first four years after EPA approval cannot be applicable to acid rain sources.

49. Section 322. The permit must also require the reporting of deviations from permit requirements and must define promptness in relation to the degree and type of deviation likely to occur and the applicable requirements in accordance with 40 CFR 70.6(a)(3)(iii)(B).

50. Section 326.01. This provision is not approvable and will preclude EPA from approving Idaho's Title V operating permit program. An upset must still be considered a violation. A state may, however, provide reasonable procedures for the exercise of enforcement discretion for upsets. Also, exercise of enforcement discretion for scheduled maintenance, start up and shut down is strictly limited. Idaho's provision is far too broad.

51. Section 326.03(a). By linking reporting to detection, the rule is much more permissive than Idaho's existing upset rule, which links reporting to occurrence. By linking reporting to detection, they can always say they didn't know about the upset. This provision must be revised to be consistent with the current requirements.

52. Section 326.03(i). Does the frequency of upsets in this paragraph relate in any way to the five upset limit in paragraph (h)?

53. Section 326.04. Allowing sources to send written notice within 15 days is more liberal than their current upset provision, which requires written notice by the end of business on the next working day. This provision must be revised to be consistent with he current requirement.

54. Section 326. The section on permit content must include a provision meeting 40 CFR 70.6(b) regarding designation of state only requirements in the Tier I permit.

55. Section 342.01. Clauses (b) and (c) appear to apply to the same actions, but use different language. Making them consistent would avoid any possible ambiguity.

56. Section 342.01(f). This provision does not appear to relate to any other subparagraphs in Section 342.01. It seems awkwardly placed. In addition, it is unclear whether this provision also includes increases in emissions of acid rain authorized by allowances, which, pursuant to 40 CFR 70.6(a)(4), must also be allowed without permit revision.

57. Section 342.02(a). This provision also appears awkwardly placed, since it does not relate to the lead in provision of 342.02. Perhaps 342.02(a) should be renumbered 324.02, and the rest of what is now Section 342.02 should be renumbered 342.03.

58. Section 342.02(d). For clarification, this sentence should be revised: "Submittal of Tier I operating applications for and the permitting of...."

59. Section 342.03. This provision is contrary to 40 CFR 70.7(a)(4) in that it suspends the 60 day automatic completeness for applications submitted within one year after EPA approval of the program.

60. Section 342.04. This provision should be revised to clarify that the memorandum must set forth the "legal and factual basis" for the proposed permit.

61. Section 342.05. For further clarity, this provision should be revised to make clear it refers to a complete Tier I application.

62. Section 342.06. This provision does not include the requirement that a responsible official must certify the submitted information.

63. Section 343.03 and (b). This provision must be revised to clarify that the application must be both timely and complete. Furthermore, the references to "permit to construct" and "Tier II operating permit" must be deleted as Sections 300 et seq. do not apply to those permits.

64. Section 344. Entitling this provision "off permit" changes is confusing, because Part 70 refers to changes of the type referred to in Section 322.16 as "off permit" changes. Changes of the type referred to in this paragraph are authorized under 40 CFR 70.4(b)(12). It may help to clarify Idaho's Title V program if all provisions allowing for operational changes outside the permit revision process were in the same place, such as off-permit changes, 502(b)(10) changes, and other operational flexibility provisions. Currently, some such provisions are here and some are either also or only in the permit content provision. This paragraph must also be revised to expressly exclude acid rain sources from making changes of the type permitted under this Section 344. In addition, this paragraph uses the term "emissions allowable under the permit," but that terms is not defined in Idaho's regulations. The term "emergencies" should also be defined.

65. Section 345. This provision can not apply for the acid rain portion of the permit. Instead, such amendments shall be governed by acid rain regulations.

66. Section 346. This provision can not apply for the acid rain portion of the permit. Instead, such modification shall be governed by acid rain regulations.

67. Section 346.01(d)(i). This provision must be clarified to provide that the emissions cap must be federally enforceable. Also, is the reference to "act" to Idaho law or to the Clean Air Act. The reference should include Title I modifications.

68. Section 346.03. This provision must also require the State promptly to send any notice required under 40 CFR 70.8(b)(2).

69. Section 346.04. This provision must be revised to provide: "Within 90 days of the Department's receipt of a complete application under the minor permit modification procedures or within 15 days after the end of EPA's 45 day review period, which ever is later,..."

70. Section 346.06. The permit shield does not apply to minor permit modifications at any time per 40 CFR 70.7(2)(vi).

71. Section 346. This section does not contain the requirements set forth in 40 CFR 70.7(e)(2)(iv) on the prohibition on issuance until after EPA review.

72. Section 348.01. Subparagraphs (c) and (g) appear redundant. Also, the program must allow for reopenings for new requirements for acid rain sources in accordance with 40 CFR 70.7(f)(ii).

73. Section 348.02. This provision must provide that reopenings shall be as expeditiously as possible. In the alternative, this assurance could be made elsewhere in the program submittal.

74. Section 349.03. This provision should be revised to provide that the 90 days runs from receipt of an EPA objection.

75. Section 401. TIER II OPERATING PERMIT. Section 401.01. must be revised so that it applies to sources that are subject to Section 300 et seq. not just Section 525. Tier II operating permits must be available to all sources which are not subject to Tier I operating permits and the applicability provisions of Section 525 are not the same as for Tier I operating permits. Furthermore, the parenthetical phrase must be revised because a source doesn't "net out" of applicability but rather limits its potential to emit to levels below the applicability provisions.

76. Section 402. APPLICATION PROCEDURES. The phrase "by the owner or operator" should be replaced with "in accordance with Section 123" now that section 123 sets out who must be the certifying official for permits to operate. Furthermore, the reference to Section 300 must be replaced with Section 400.

77. Section 402. APPLICATION PROCEDURES. The structure of this provision is confusing. Since all of section 402 applies to Tier II permits, the lead in to Section 402.01 should perhaps be revised to state: "An application for a Tier II permit must contain the following:" Also, the reference to Section 200 in 402.03 should be changed to Section 400 et seq.

78. Section 403. REQUIREMENTS FOR ALTERNATIVE EMISSION LIMITS (BUBBLES), Section 404. REQUIREMENT FOR BANKING EMISSION REDUCTION CREDITS (ERC'S), Section 405. REQUIREMENTS FOR EMISSION REDUCTION CREDIT and Section 406. DEMONSTRATION OF AMBIENT EQUIVALENCE. The structure of this part of the state's regulation is strained since Sections 400 et seq. apply to Tier II operating permits yet these Sections cover both Tier I and Tier II operating permits. These Sections should be relocated after Sections 400 - 499, since they apply to all sources, not just sources subject to Tier I operating permits.

79. Section 403.04. This section needs to refer to all of the National Emission Standards for Hazardous Air Pollutants, not just those in 40 CFR Part 61 but those in Part 63 as well.

80. Section 407.03. Idaho may wish to consider using the term "permit revision" rather than "permit modification"

81. Section 408.02. To ensure enforceability, this provision should specify a time period within which the source must provide the Department with a copy of the test results.

82. Section 525. REGISTRATION AND REGISTRATION FEES. If Idaho intends to use this registration fee to satisfy its Title V obligation, it must ensure that all sources subject to Section 300 et seq. are required to pay a fee in accordance with the requirement of Title V of the Clean Air Act. It is not clear that a source which is major solely for hazardous air pollutants would be required to pay any fee under this Section. Although Title V provides much flexibility in how a state chooses to charge fees to Title V sources, a state cannot exempt any Title V source from paying fees.

83. Section 527.06. The reference to Section 01.010527.004 appears to be in error.

84. Section 527.08. The reference to Section 532 should be changed to Section 532.01 as in 527.07 above.

85. Section 581. PREVENTION OF SIGNIFICANT DETERIORATION (PSD) INCREMENTS. This section must be revised to change the increments for Total Suspended Particulates to the new increments for PM_{10} which were promulgated by EPA on June 3, 1993 (58 FR 31622).

86. Section 997. CONFIDENTIALITY OF RECORDS. The Idaho regulations which are incorporated by reference herein do not meet the requirements of 40 CFR Part 70 and Section 114 of the Clean Air Act. These regulations must be revised in order for Idaho's Title V operating permit program to receive full approval.

ATTACHMENT

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10
1200 Sixth Avenue
Seattle, Washington 98101

June 29, 1993

Reply To
Attn Of: AT-082

Sue Richards
Operating Permits Bureau
Division of Environmental Quality
Idaho Department of Health
and Welfare
1410 North Hilton
Boise, Idaho 83720-9000

Dear Ms. Richards:

As we discussed the other day, I have given some thought to the problem of incorporating Idaho's proposed air toxics new source permitting program into the permit to construct program currently approved in the Idaho state implementation plan (SIP). The current draft rule revisions will not work and, if adopted, would likely result in the disapproval of Idaho's current SIP new source permitting program.

The SIP new source review permitting programs required by §110(a)(2)(C) of the Clean Air Act do not cover hazardous air pollutants. As such, EPA would not be able to approve the new toxic air pollutant provisions as part of the SIP anyway. The effect of mingling applicability criteria for hazardous air pollutants with the required criteria for other regulated air pollutants is to unacceptably relax the requirements of the currently-approved rules.

Note as well that the proposed toxic air pollutant provisions will not meet the requirements of §112(g) of the Clean Air Act and could not be approved under §112(l). If adopted as currently drafted, Idaho would have to revise these provision by November 1994 in order to comply with the requirements of Title V.

I suggest that this subsection be restructured entirely so as to separate toxic air pollutant sources from sources of the other regulated air pollutants. Enclosed is my suggested approach for making this change.

I hope that you find these suggestions useful in preparing your final draft regulations. If you have any questions, or would like to discuss this further, please give me a call at (206) 553-4253.

Sincerely,

David C. Bray
Permit Programs Manager

Enclosure

EPA SUGGESTION FOR RESTRUCTURING IDAHO
PERMIT TO CONSTRUCT APPLICABILITY PROVISIONS

01.01012, PROCEDURES AND REQUIREMENTS FOR PERMITS TO CONSTRUCT AND STATE OPERATING PERMITS.

02. Permit to Construct. **Except as provided in a. and b. below, n**~~N~~o owner or operator may commence construction or modification of any stationary source **or facility,** ~~major facility, or major modification~~ after the effective date of Section 01.01012 without first obtaining a permit to construct from the Department which satisfies the requirements of this Section~~, except that no permit to construct is required for the following classes of equipment which have actual and allowable emission of less than one hundred (100) tons per year of any air contaminant or would not significantly increase the emissions of a major facility~~: ~~(12-31-91)~~( )

a. ~~Air conditioning or ventilating equipment not designed to remove air contaminants generated by or released from equipment;~~**No permit to construct is required for equipment which emits or has the potential to emit any criteria pollutant or air pollutant subject to a standard promulgated under section 111 of the Clean Air Act and which belongs to one of the following classes of equipment; provided that, in and of themselves or in combination with other equipment they are not major facilities or major modifications:** ~~(10-25-72)~~( )

i. Air conditioning or ventilating equipment not designed to remove air pollutants generated by or released from equipment; ( )

ii. Air pollutant detectors or recorders, combustion controllers, or combustion shutoffs; ( )

iii. Fuel burning equipment for indirect heating and for heating and reheating furnaces using natural gas, propane gas, liquified petroleum gas exclusively with a capacity of less than fifty (50) million btu's per hour input; ( )

iv. Other fuel burning equipment for indirect heating with a capacity of less than one million (1,000,000) btu's per hour input; ( )

v. Mobile internal combustion engines, marine installations and locomotives; ( )

vi. Agricultural activities and services. Agricultural activities and services do not include manufacturing, bulk storage handling for resale or formulating of any agricultural chemical listed in Appendices 1, 2, or 3.)

vii. Retail gasoline, natural gas, propane gas, liquified petroleum gas, distillate fuel oils and diesel fuel sales.)

viii. Any other class or size of equipment specifically exempted by the Director. A list of those sources unconditionally exempted by the Director will be maintained by the Department and made available upon written request. ( )

b. ~~Air contaminant detectors or recorders, combustion controllers, or combustion shutoffs;~~No permit to construct is required for equipment which emits or has the potential to emit any hazardous air pollutant listed in or pursuant to section 112(b) of the Clean Air Act or a toxic air pollutant listed in Appendix 1, 2 or 3, and is a Category I, II or III source as defined below; provided that, in and of themselves or in combination with other equipment they are not major facilities or major modifications: ~~(10-25-72)~~( )

i. A Category I source shall: ( )

(a) Have actual and potential emissions that are less than ten percent (10%) of the emission rates specified in section 16.01.01003,86.a; ( )

(b) Not have a potential to emit emissions that exceed the screening emission levels or that will cause an exceedance of the acceptable ambient concentrations provided in the toxic air pollutant carcinogenic standards, toxic air pollutant non-carcinogenic standards or toxic air pollution interim limits; ( )

(c) Not have any emissions of any chemical listed in Appendix 3 for which a toxic air pollutant interim de minimis amount or a toxic air pollutant interim limit has not been established by the Department; ( )

(d) Not have a potential to emit emissions that exceed the ambient air concentrations or other

amount provided in the toxic air pollutant interim de minimis amounts; and ( )

(e) Not have any emissions of radionuclides for which a National Emissions Standard for Hazardous Air Pollutants has been developed. ( )

ii. A Category II source shall:

(a) Be any of the below listed sources: ( )

(1) Laboratory equipment used exclusively for chemical and physical analyses, research or education, including, but not limited to, ventilating and exhaust systems for laboratory hoods. To qualify for this exemption, the source shall not have a potential to emit emissions that exceed the screening emission levels or that will cause an exceedance of the acceptable ambient concentrations provided in the toxic air pollutant carcinogenic standards, toxic air pollutant non-carcinogenic standards, or toxic air pollutant interim limits; and have any emission of radionuclides for which a National Emission Standard for Hazardous Air Pollutant has been developed. ( )

(2) Environmental characterization activities including emplacement and operation of field instruments, drilling of sampling and monitoring wells, and any other environmental characterization activities specifically exempted by the Director. ( )

(3) Stationary internal combustion engines of less than or equal to 600 horsepower and which are fueled by natural gas, propane gas, liquified petroleum gas, distillate fuel oils, residual fuel oils, and diesel fuel; waste oil, gasoline, or refined gasoline shall not be used. To qualify for this exemption, the source must be operated in

accordance with the following: 100 horsepower or less -- unlimited hours of operation; 101 to 200 horsepower -- less than 450 hours per month; 201 to 400 horsepower -- less than 225 hours per month; 401 to 600 horsepower -- less than 150 hours per month. ( )

(4) Stationary internal combustion engines used exclusively for emergency power generation which are operated less than 200 hours per year and are fueled by natural gas, propane gas, liquified petroleum gas, distillate fuel oils, residual fuel oils, and diesel fuel; waste oil, gasoline, or refined gasoline shall not be used. ( )

(b) Maintain documentation verifying compliance with section 01.01012 on site and submit the documentation to the Department immediately upon request; ( )

iii. A Category III source shall:

(a) Be a pilot plant which meets one of the following conditions:

(1) Use a slip stream from an existing process stream not to exceed ten percent of that existing process stream; or

(2) Not have a potential to emit emissions: which are significant as defined in section 01.01003,86.a; and which exceed the screening emissions levels or that will cause an exceedance of the acceptable ambient concentration provided in the toxic air pollutant carcinogenic standards, toxic air pollutant non-carcinogenic standards, or toxic air pollutant interim limits after application of the short term adjustment factor; and of any chemical listed in Appendix 3 for which a toxic air pollutant interim de minimis amount or a toxic air pollutant interim limit has not